

Title 19

TRANSPORTATION

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Chapter 01

COMMERCIAL CARRIERS

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19.0101 Definitions.

As used in this title unless the context otherwise requires, the following meanings apply:

- (a) “Commercial carrier” means a person operating a commercial means of

conveyance on or between the islands of American Samoa, excluding aircraft, vessels, or a tramway.

(b) “Commercial transportation” means the transportation of passengers for compensation or property. Commercial transportation does not include: (1) transportation performed by any subdivision, including any semi-autonomous agency, of the American Samoa Government or the United States Government; or (2) occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise; or (3) transportation of human corpses; or (4) transportation of sick or injured persons.

(c) “Commercial vehicle” means any automobile, automobile truck, motorbus, or other self-propelled or towed means of overland conveyance, including but not limited to any trailer, semitrailer or other device used as a means of conveyance, not operated upon fixed rails or tracks and: (1) is used for commercial transportation; or (2) has a gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (3) is designed or used to transport more than fifteen (15) passengers, including the driver, regardless of whether it is used for compensation; or (4) is used to transport material designated as hazardous in accordance with 40 U.S.C. 5103 and is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.

(d) “Commission” means the Government Commerce Commission.

(e) “Vessel” means a watercraft, except longboats and paopaos, used or intended to be used as a means of transporting passengers or freight for profit.

History: 1972, PL 12-65 § 1; amd 1973, PL 13-20 § 1; 1979, PL 16-21 § 3; amd 1981, PL 17-15 § 1; amd 2019, PL 36-2 § 1.

Amendments: 1973 Amended definitions generally.
1979 Subsection (a): added “excluding aircraft” at end.

19.0102 Organization of Commission.

(a) The Commerce Commission shall consist of the Director of Developmental Planning and 4 members appointed by the Governor with the advice and consent of the Senate.

(b) Of the appointed members, one shall be from the Eastern District, one from the Western District, and one from the Manu’a District.

(c) Members appointed between sessions of the Legislature shall serve provisionally until the next session.

(d) The Commission shall elect its own Chairman at its first meeting each year.

History: 1972, PL 12-65 § 1; amd 1973, PL 13-20 § 2; amd 1979, PL 16-17 § 1.

Amendments: 1973 changed membership in Commission and Chairmanship; added consent of Senate to appointment; deleted reference to jurisdiction.
1979 Subsection (a): deleted “Attorney General” from Commission membership and raised from 3 to 4 the number of members to be appointed by the Governor. Subsection (d): changed Chairmanship from the Attorney General to a person elected by the Commission.

19.0103 Powers and duties of Commission.

(a) The Commission is vested with the power and authority, and it is its duty to:

(1) fix or approve the rates, fares, charges, classifications and rules pertaining thereto,

of each commercial carrier;

(2) regulate and supervise the accounts, schedules, and service of each commercial carrier;

(3) prescribe a uniform system and classification of accounts to be used, which among other things shall provide for the setting up of adequate depreciation charges;

(4) require the filing of annual and other reports;

(5) supervise and regulate commercial carriers in all other matters affecting the relationship between the carriers and the travelling and shipping public, including, but not limited to, upon the recommendation of the Commissioner of Public Safety, the establishment of convenient bus stops in all villages, so needing.

(b) The Commission shall also have power and authority to prescribe, by general order or otherwise, regulations applicable to any and all commercial carriers.

History: 1972, PL 12-65 § 1; amd 1977, PL 15-5.

19.0104 Regulations of and inspections by, Division of Public Safety.

(a) The Department of Public Safety may prescribe and enforce safety regulations for the operation of commercial carriers and require a periodic inspection of the equipment of every commercial carrier from the standpoint of enforcement of safety regulations. Such equipment shall be at all times subject to inspection by properly authorized representatives of the department.

(b) Vehicles used to transport eight or fewer passengers, including the driver, for commercial transportation shall not be subject to Federal Motor Carrier Safety Regulations or Federal Hazardous Material Regulations that are adopted by statute or regulation.

History: 1972, PL 12-65 § 1; amd 1973, PL 13-20 § 3; amd 1979, PL 16-21 § 4; amd 2019, PL 36-2§2.

Amendments: 1973 Added provisions relating to regulation of aircraft.

1979 Deleted sentence providing that on regulating aircraft the Commission's power was limited to control of rates and schedules.

19.0105 Rates.

All charges made by any commercial carrier for any service rendered or to be rendered in the public transportation of passengers or property, or in connection therewith, shall be just, reasonable and nondiscriminatory, and every unjust, unreasonable or discriminatory charge for such service, or any part thereof, is prohibited and unlawful.

History: 1972, PL 12-65 § 1.

19.0110 Certificate of convenience and necessity—Required.

It is unlawful for any commercial carrier to operate or furnish public service within American Samoa without first having obtained from the Commission a certificate declaring that public convenience and necessity require such operation.

History: 1972, PL 12-65 § 1.

Amendments: 1977 Subparagraph (a)(5): added inclusion at end.

19.0111 Certificate of convenience and necessity—Issuance of tentative

certificate.

(a) The Commission shall issue a tentative certificate upon finding that the service proposed to be rendered will promote the public convenience and is a necessity.

(b) Such certificate shall remain tentative in nature for a period of 20 days.

(c) The issuance of a tentative certificate shall vest no right, priority or legal interest in its holder.

History: 1972, PL 12-65 § 1.

19.0112 Certificate of convenience and necessity—Financial ability of applicant.

No certificate of convenience and necessity shall be issued until the applicant has made a satisfactory showing as to his financial ability to carry out any terms and conditions imposed.

History: 1972, PL 12-65 § 1.

19.0113 Certificate of convenience and necessity—Conditions.

When the certificate is granted, the Commission may attach to the exercise of the rights therein conferred such terms and conditions as in its judgment the public convenience and necessity may require, which shall include the right and duty to transport newspapers.

History: 1972, PL 12-65 § 1.

19.0114 Certificate of convenience and necessity—Alteration and revocation.

The Commission may, for just cause, at any time alter, amend or revoke any certificate issued.

History: 1972, PL 12-65 § 1.

19.0115 Rules of procedure.

The Commission shall adopt rules governing the procedure to be followed in the filing of applications and the conduct of hearings.

History: 1972, PL 12-65 § 1.

19.0116 Application for certificate—Contents.

All applications shall be in writing and, in addition to any other information required, shall contain the following:

- (1) the name of the individual, firm or corporation making the application;
- (2) the principal office or place of business of the applicant;
- (3) a schedule setting forth in detail the service which the applicant proposes to furnish;
- (4) A complete description of the equipment which the applicant proposes to use in furnishing the service;
- (5) a financial statement from which the commission can determine whether or not the applicant is able to engage successfully in the undertaking proposed in the application.

History: 1972, PL 12-65 § 1.

19.0117 Notice of issuance of tentative certificate.

Upon the issuance of a tentative certificate, the Commission shall post notice of such issuance on the bulletin board at the police barracks.

History: 1972, PL 12-65 § 1.

19.0118 Objections to issuance of permanent certificate.

Any person, firm, corporation, village, or agency of the government whose rights or interest may be affected shall have the right to make written objections to the issuance of a permanent certificate. Any objection must be filed within 10 days of posting of notice of the issuance of a tentative certificate.

History: 1972, PL 12-65 § 1.

19.0125 Hearing—Date and place.

Upon the close of the 10-day period for the filing of objections, the Commission shall set and give notice of a date for a hearing upon merits. Such date shall be within 1 week of the close of the 10-day period, and the hearing shall be held at the courthouse of the High Court unless a different place is specified in the notice.

History: 1972, PL 12-65 § 1.

19.0126 Hearing—Issues and evidence.

The Commission shall consider the application and any objections filed thereto, and may hear testimony to aid in determining the propriety of granting a permanent application.

History: 1972, PL 12-65 § 1.

19.0129 Appeal—Time and notice.

Appeal may be taken from the decision of the Commission, by the applicant or any party who appeared in opposition to the applicant, to the High Court, within 30 days from the time and decision was rendered, by giving at least 10 days' notice to the Commission, to be served on its Chairman or Secretary.

History: 1972, PL 12-65 § 1.

19.0130 Appeal—Transcript.

Upon appeal being taken, the Secretary of the Commission shall make and certify a transcript of all papers, records and proceedings in connection with such application and hearing and shall file the same with the clerk of the High Court within 10 days following the taking of such appeal.

History: 1972, PL 12-65 § 1.

19.0127 Hearing—Order.

Upon the completion of the hearing, the Commission may issue an order to grant a permanent certificate, or an order to revoke the tentative certificate. It shall then forward such order to the Department of Administrative Services for further action.

History: 1972, PL 12-65 § 1.

19.0128 Hearing—Liability for costs and expenses.

(a) The applicant shall pay all costs and expenses of the hearing and any necessary preliminary investigation in connection therewith before a permanent certificate shall be granted.

(b) The Commission may require the applicant to deposit with it, at the time the application is filed, an amount of money to be determined by the Commission to secure the payment of costs and expenses.

History: 1972, PL 12-65 § 1.

19.0131 Appeal—Hearing.

The appeal shall be submitted upon the transcript of the evidence and the record made before the Commission. The court shall either affirm or reverse the order of the commission in accordance with the provisions for appeal found in the Administrative Procedure Act. 4.1001 et seq.

History: 1972, PL 12-65 § 1.

19.0132 Transfer of certificate.

No certificate of convenience and necessity shall be sold, transferred, leased, or assigned until the commercial carrier has operated thereunder for at least 70 days of continuous service, nor shall any contract or agreement with reference to or affecting any such certificate be made except with the written approval of the Commission; nor shall any person be permitted to assume any such certificate unless he or it possesses all the qualifications of, and meets all the requirements and assumes all the obligations imposed upon, an original applicant.

History: 1972, PL 12-65 § 1.

19.0133 Cancellation of certificate.

For the violation by any commercial carrier of any provision of this title relating to commercial vehicles or of any rule or regulation promulgated thereunder, the Commission may, in addition to other penalties herein provided, revoke and cancel the certificate of such commercial carrier. In the event of any flagrant and persistent violation of safety regulations by the holder of a certificate, the Commission shall suspend such certificate of necessity until prescribed safety regulations are complied with, and in the case of failure to comply, the Commission may revoke the certificate at its discretion.

History: 1972, PL 12-65 § 1.

19.0134 Accounts.

After a uniform system and classification of accounts is prescribed under paragraph (a)(3) of 19.0103, commercial carriers shall use no other.

History: 1972, PL 12-65 § 1.

19.0135 Insurance.

(a) All owners of commercial vehicles shall carry public liability insurance on their vehicles in an amount established by the Commerce Commission.

(b) A violation of this section is punishable as a class A misdemeanor.

History: 1972, PL 12-65 § 1; amd 1981, PL 17-15 § 2.

19.0136 Misdemeanors.

Any owner, officer, agent or employee of any commercial carrier, and every other person who does any of the following is guilty of a class B misdemeanor:

(1) violates or fails to comply with, or who procures, aids or abets in the violation of, any provision of this title or Title 22 relating to commercial vehicles;

(2) fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement or any part or provision thereof, of the Commission;

(3) procures, aids or abets any corporation or person in his failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation or any part or provision thereof.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 66.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

19.0137 Impounding authorized.

In addition to any other penalties and disabilities prescribed by this chapter, the Commerce Commission shall impound the vehicle or vehicles owned by any commercial carrier under the following circumstances and for the following length of time:

(1) upon conviction of any offense set forth in 19.0136 for a period of not to exceed 6 months;

(2) upon cancellation of the certificate of the commercial carrier pursuant to 19.0133 until such time as the certificate is reacquired or the vehicle is sold.

History: 1979, PL 16-3 § 5.

Chapter 02

COMMERCIAL VEHICLES

Sections:

19.0201 Condition of commercial vehicles.

19.0202 Servicing commercial vehicles.

19.0203 Drivers of vehicles.

19.0204 Passengers on vehicles.

19.0205 Distinctive markings and tags on vehicles.

19.0206 Safety rules and regulations by commission.

19.0201 Condition of commercial vehicles.

Every commercial vehicle shall be maintained in a safe and sanitary condition at all

times and shall be at all times subject to inspection.

History: 1972, PL 12-65 § 1.

19.0202 Servicing commercial vehicles.

No commercial vehicle may be filled with gasoline, diesel, or other fuel or otherwise serviced with passengers on board the vehicle.

History: 1979, PL 16-7 § 1; and 1979, PL 16-50 § 1.

19.0203 Drivers of vehicles.

Every driver of a commercial vehicle shall be at least 21 years of age, in good physical condition, of good moral character, fully competent to operate the commercial vehicle under his charge, and hold a private driver's license and a commercial driver's permit.

History: 1972, PL 12-65 § 1.

19.0204 Passengers on vehicles.

Passengers shall not be permitted to ride on the running boards, fenders, or on any other outside part of passenger-carrying commercial vehicles.

History: 1972, PL 12-65 § 1.

19.0205 Distinctive markings and tags on vehicles.

There shall be attached to each commercial vehicle such distinctive markings or tags as shall be prescribed by the commission.

History: 1972, PL 12-65 § 1.

19.0206 Safety rules and regulations by commission.

The Commission shall promulgate such other safety rules and regulations as it may deem necessary to govern and control the operation of commercial vehicles upon the highways and the maintenance and inspection thereof.

History: 1972, PL 12-65 § 1.